

had to live within the terms of that charter, so that you may say that all the exemptions granted to the B&O Railroad by virtue of Chapter 112 of the Act of 1826 were irremovable.

Now, the State of Maryland in 1851, when it wrote the 1851 Constitution, realized that it could not continue to give these charters which conferred special status upon corporations, and here I should say that at this time all the corporations of the State were enacted by the charter method through acts of the General Assembly, but the state realized it would want to keep a protection to itself so that it could alter or repeal or amend charters. In 1851 the first two sentences that you see in this section here were added as a part of the 1851 Constitution which in effect said that any corporation charter granted by the General Assembly from here on in shall be subject to alteration, modification, and repeal by the General Assembly.

Now, nobody knows exactly how many state charters were conferred by the General Assembly prior to 1851, both in colonial, governmental and national governmental times, which contain these exemptions.

We are aware of two and possibly three — the B&O Railroad exemption from taxation, the Green Mountain Cemetery exemption from taxation, but that is now exempt under another section of Article 81 of the Code, and there is possibly a third which we know exists but which a lawyer felt he could not reveal to us because this was a client's confidence that he had.

In any event, the State of Maryland began to work on the B&O Railroad to see if it could not chip away at this exemption, and the Court of Appeals of Maryland held that despite all attempts to the contrary, the charter exemption was irrevocable, and that the B&O was entitled to continue it and did not have to pay taxes upon its real property, upon its gross receipts. In effect it does not have to pay sales tax and innumerable other kinds of taxes, and it is probably worth many millions of dollars to the Baltimore and Ohio Railroad.

Now, in 1891, the last sentence of what you see before you was added by constitutional amendment, and this was a specific attempt to get at the B&O Railroad, and nobody else, although in its language certainly it is broad enough to pick up others, and undoubtedly would.

This is a grandfather clause which in effect says that any time anyone who has

a state charter seeks to take advantage of the other corporate benefits of the state, alter, repeal or modify their charter, they will conclusively be presumed to have given up any exemption they might enjoy.

Now, this 1891 third sentence that I make reference to was passed after the State and the B&O Railroad came to a settlement agreement in 1878, but the settlement agreement again appeared to be unsatisfactory to the State of Maryland, so that what you have through the history of the State is a constant attempt to delimit this exemption, an attempt to make the B&O Railroad uniform with other state-chartered railroads and corporations, and to generally classify it with all other corporations of like character.

Now, the B&O Railroad from time to time found it necessary to ask for charter amendments because it had to build other lines, it had to build the metropolitan line in Baltimore, it had to build the Washington line, and it had to build the Philadelphia line. None of these particular grants could be considered to have been conferred by the 1826 original charter which only allowed the B&O to build from Baltimore to some point on the Ohio River.

Now, every time the B&O came back to the General Assembly for this additional corporate power, of course the General Assembly did its best to see to it that the exemption which originally applied to the Baltimore to Ohio line did not apply to the others, but there was constant bickering and continued Court of Appeals cases, continued cases on many levels, continued opinions of the attorney general.

The Committee on the Legislative Branch realized that it would be possible to take this entire section and to put it in the transitional legislation, but at the same time we realized that there was a risk involved, that in the event the B&O Railroad should challenge this particular mode of operation it might be well that we lost any of the benefits of the third sentence of the section you have before you.

The reason that we are impelled to put it in the constitution at this time is this, that the Baltimore and Ohio Railroad has agreed to merge with the Chesapeake and Ohio Railroad. The very act of merger, we believe, will be enough to force the B&O Railroad to relinquish its tax exemption. Despite the fact that the B&O-C&O have agreed to merge, they have not done a thing, and the Maryland Port Authority at the present time has petitioned the In-